IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 634 OF 2006 (M/S)
Under Art. 227 of the Constitution of India

1. Ompal Singh,
2. Kalu Ram,
   Both S/o Kabaz Singh,
   R/o Village Mundlana, Pargana- Manglor,
   Tehsil – Roorkee, District- Haridwar.

... **Petitioners.**

Versus

1. Civil Judge (J.D.) Roorkee, District Haridwar.
2. Sahi Ram S/o Dhoom Singh.
3. Satpal S/o Chetan.
4. Mehtab S/o Mehboob.
5. Sompal, S/o Pawan Singh.
6. Ompal S/o Pawan Singh.
7. Vishwa S/o Pawan Singh.
8. Jay Kumar S/o Samay Singh.
9. Rishipal S/o Samay Singh.
   Respondent No. 2 to 9 R/o Vill- Mundlana Pargana
   Manglor, Tehsil Roorkee, District Haridwar.

... **Respondents.**

Sri Narayan Datt, learned counsel for the Petitioners.
Sri Nand Prasad, ld. Standing Counsel for the State-respondent no.1.

Dated 25-05-2006

Hon'ble B.S. Verma, J.

Heard learned counsel for the parties.

By means of this writ petition the petitioners have prayed to issue a writ order or direction the nature of certiorari quashing the order dated 28-11-2005 passed by the respondent no. 1 (Annexure No. 6 to the writ petition). The petitioner further seeks direction in the nature of mandamus directing the parties to the suit to maintain status-quo in respect of the suit property.

The relevant facts giving rise to the present writ petition are that the petitioner earlier filed a Writ Petition before this Court, which was bearing Writ Petition No. 96 of 2006(M/S), which was decided on 14-2-2006 with the observation to the effect

that considering the facts and the circumstances of the case, I direct the Civil Judge, (Junior Division) Roorkee (Haridwar) to decide the application for ad interim injunction moved by the plaintiff under Order 39, Rules 1 and 2 and Section 151 of the C.P.C. after hearing both the parties within fifteen days from the date of production of certified copy of this order by the plaintiff-petitioner.

The grievance of the petitioner as set out in the present case is that in Civil Suit No. 153 of 2005, Ompal Singh and another Vs. Sahi Ram and others, no interim order had been passed by the court below in favour of the plaintiff-petitioner. According to the petitioner, the allegation against the respondent nos. 2 to 4 is that the candidate supported by them won the election of Gram Panchayat and they started disturbing the peace and intending to dispossess the petitioners from the suit property owned by them. It has also been alleged that the respondent no.1 issued notice to the defendants in the suit without considering the balance of convenience and prima facie case. The main grievance of the petitioners is that since 19-12-2005, the court of the respondent no.1 is lying vacant because the Presiding Officer had gone on leave and the respondents no. 2 to 4 are adamant to damage the suit property thereby disturb the peace.

Having considered the facts and circumstances of the case, I am not inclined to find with the contention of the petitioners to quash the order dated 28-11-2005 simply on the ground that the court of respondent no.1 is lying vacant. It is open to the petitioners to approach before the District judge under the provisions of Section 24 of the C.P.C. In my view, there is no good ground to interfere with the impugned order at this stage.

With the above observations, the writ petition is disposed of finally.

(B.S. Verma, J.)

RCP